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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/822,405

04/12/2004

Syed R. Iqbal

1139-026

2888

25215 7590 06/20/2007
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EXAMINER

PHAN, THIEM D

ART UNIT

PAPER NUMBER

3729

MAIL DATE

DELIVERY MODE

06/20/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/822,405

Applicant(s)

IQBAL ET AL.

Examiner

Tim Phan

Art Unit

3729

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 June 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: None.
Claim(s) objected to: None.
Claim(s) rejected: 24-27, 47 and 48.
Claim(s) withdrawn from consideration: 28-46.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


**A. DEXTER TUGBANG
PRIMARY EXAMINER**

Continuation of 11.

Applicants' remarks filed on 06/11/07 re-traversing Claims 24-27, 47 and 48 are hold not to be persuasive for the following reasons:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 24-27 and 47-50 are rejected under 35 U.S.C. 102(b) as being anticipated by Inoue et al (US 5,450,894).
With regard to claim 24, Inoue et al teach a process of controlling air flow control through a car seat (Figs. 1, 83 & 84), comprising:
drawing ambient air through a seating surface (Fig. 1, 60) of a transportation vehicle seat (Fig. 1, 50) including the surrounding area into a mixing region (Fig. 1, area of 64) of the seat;
mixing the drawn ambient air with a cooled fluid by evaporator (Fig. 1, 78) provided to the mixing region; and
removing the resulting mixture from the mixing region through intermediate duct (Fig. 1, 66).

With regard to claim 25, Inoue et al teach a process of controlling air flow control through a car seat (Figs. 1, 83 & 84), comprising:
drawing ambient air through a seating surface (Fig. 1, 60) of a transportation vehicle seat (Fig. 1, 50) including the surrounding area into a mixing region (Fig. 1, area of 64) of the seat;
mixing the drawn ambient air with a cooled fluid by evaporator (Fig. 1, 78) provided to the mixing region;
removing the resulting mixture from the mixing region through intermediate duct (Fig. 1, 66); and
providing the cooled fluid through the use of a thermoelectric device or evaporator (Fig. 1, 78).

With regard to claim 26, Inoue et al teach a process of controlling air flow control through a car seat (Figs. 1, 83 & 84), comprising:
drawing ambient air through a seating surface (Fig. 1, 60) of a transportation vehicle seat (Fig. 1, 50) including the surrounding area into a mixing region (Fig. 1, area of 64) of the seat;
mixing the drawn ambient air with a cooled fluid by evaporator (Fig. 1, 78) provided to the mixing region;
removing the resulting mixture from the mixing region through intermediate duct (Fig. 1, 66);
providing the cooled fluid through the use of a thermoelectric device or evaporator (Fig. 1, 78); and
maintaining the pressure in the mixing region (Fig. 1, area of 74, 78, 82 & 80) below or above the ambient pressure so that substantially all of the resulting mixture does not pass through the seating surface (Fig. 1, 50) immediately.

With regard to claim 27, Inoue et al teach a process of controlling air flow control through a car seat (Figs. 1, 83 & 84), comprising:
drawing ambient air through a seating surface (Fig. 1, 60) of a transportation vehicle seat (Fig. 1, 50) including the surrounding area into a mixing region (Fig. 1, area of 64) of the seat;
mixing the drawn ambient air with a cooled fluid by evaporator (Fig. 1, 78) provided to the mixing region;
removing the resulting mixture from the mixing region through intermediate duct (Fig. 1, 66);
providing the cooled fluid through the use of a thermoelectric device or evaporator (Fig. 1, 78);
wherein the cooled fluid is provided by blowing cooled air (Fig. 1, 78) into the mixing region (Fig. 1, area of 74, 78, 82 & 80) while preventing substantially all of the resulting mixture from passing through the seating surface (Fig. 1, 50).

With regard to claim 47, Inoue et al teach that at least a portion of the resulting mixture is exhausted (Fig. 1, f1) to ambient air.

With regard to claim 48, Inoue et al teach the step of re-circulating (Fig. 87(B), area 60) at least a portion of the removed resulting mixture back into the mixing region.

Responses to Remarks

3. With respect to claim 24 and applicants' remarks on page 7, applicants assert that by the principle of fluid dynamics, the air flow will not be through the seating surface, as taught by the prior art Inoue et al. The examiner disagrees because with the principle of fluid dynamics and a sample of smoke produced on the seating surface, the later one will be immediately sucked in the suction outlet (Fig. 1, 60), which is similarly processed as the claimed invention wherein the ambient air (or the smoke as in the example) is drawn through the seating surface.

4. Applicants' citations of the use of a thermoelectric device as taught within the specification (Claim 25; Remarks, page 8, top 3 paragraphs) and the wrongly assertion/claim that the examiner agrees that a thermoelectric device is completely distinct from an evaporator (See examiner Office Action on 4/11/07, page 4, section 4, lines 7 & 8) are traversed. In response to applicants' arguments that the reference Inoue et al fail to show certain features of applicants' invention, it is noted that the features upon which applicant relies (i.e., thermoelectric device as heating and cooling device) are not recited in the rejected claim. Although the claim is interpreted in light of

the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

5. With regards to applicants' remarks on page 8, last 2 paragraphs where the applicants assert that Inoue et al fail to teach or suggest forming negative pressure within the mixing region with respect to the surrounding ambient pressure; the examiner respectfully traverses this assertion because Inoue et al teach a mixing air region where the temperature is cooled down (Fig. 1, area 78) and there would be a certain drop in pressure in that area with respect to the surrounding ambient pressure (Fig. 1, 126) due to the principle of thermodynamic fluid

It appears that applicants fail to recognize the scope of the claim when judged in view of Inoue et al. (See MPEP 2111 and *In re Geuns*, 26 USPQ 2nd 1057 (Fed. Cir. 1993)).

The remainder of the claims, i.e. Claims 27, 47 and 48, stand rejected with the reasoning for their rejections carefully articulated in the above Office Action Rejection and in view of the Responses to Remarks in the paragraphs above..